17.03.2021
Court No. 19
Item No.19
CP

C.O. 570 of 2021

Sri Somnath Bhunia & anr.
vs.
The Regional Manager & anr.

Mr. Debasis Sur
Mr. Mrinmoy Chatterjee

.....for the petitioners.

Mr. Om Narayan Rai

....for the opposite parties.

This revisional application arises out of an order dated February 12, 2021, passed by the learned Additional District Judge, Ghatal in Misc. Appeal No. 01 of 2019 which arose out of an order dated September 4, 2019, passed by the learned Civil Judge (Senior Division), Ghatal, Paschim Medinipur in Title Suit No. 52 of 2019.

The learned Trial Judge refused the ad-interim injunction. The nature of ad-interim injunction sought for by the petitioner was that the bank who was the tenant of the petitioner, should be restrained from shifting from the suit property (tenanted portion, tenancy of which had been terminated at the option of the tenant). The learned Trial Judge refused the ad-interim injunction on the ground that the prima facie case of the plaintiffs was not satisfactory and there was serious doubt as to the maintainability

of the suit. The suit was for specific performance of two separate agreement for tenancy. The plaintiffs, in effect, have challenged the termination of the tenancy at the instance of the bank/defendant in the suit and sought for specific performance of those agreements. Thus, the learned Trial Judge not being convinced with the prima facie case and the balance of convenience and inconvenience refused to pass an ad-interim injunction.

Aggrieved, the plaintiffs/petitioners filed the Misc. Appeal. The said Misc. Appeal was disposed of on merits. The prayer for injunction was refused and the Misc. Appeal was dismissed accordingly. The learned lower appellate court upon considering the facts and the relevant law applicable came to the conclusion that the notice of termination given by the defendants/opposite parties terminating the lease agreement with the plaintiff/landlord was not in violation of any provisions of the lease agreement. It was also the prima facie view of the learned lower appellate court that if the tenant left the tenanted premises and chose to take on rent another premises, that could not be prevented on the ground of financial loss of the landlord. The tenant could not be restrained from leaving the tenanted premises, the lease of which was terminated by the tenant as per the option given to the tenant in the lease agreement.

I am in agreement with the findings of the learned court below and I am of the prima facie view that at this stage no interim order can be passed restraining the defendants/bank authorities from shifting and starting its banking operations in another tenanted premises. This is a public service and such public service cannot be stopped by an ad-interim order of injunction.

It appears that the application for temporary injunction is pending. The learned Trial Judge will dispose of the application for temporary injunction within two months from the next date fixed upon allowing the parties to contest the same and without being influenced by any observations made either by the learned lower appellate court or by this court. The learned court below shall proceed on the basis of the documents and the pleadings of the parties.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)